

REMARKS

Claims 1-12 are all the claims pending in the application.

Applicant respectfully traverses the rejection of claims 1, 5, 9 and 11 under 35 U.S.C. § 102(b) as being anticipated by Armand (FR '884), the rejection of claims 2, 6 and 10-12 under 35 U.S.C. § 103(a) as being unpatentable (obvious) over Armand in view of Decrouppe '789, and the rejection of claims 3, 4, 7, 8 and 11 under 35 U.S.C. § 103(a) as being unpatentable (obvious) over Armand '884 in view of Decrouppe '789 and further in view of Larabet '041, for the following reasons.

First, the rejection based on anticipation under 35 U.S.C. § 102(b) requires that each limitation of each rejected claim be disclosed, either expressly or inherently, in Armand, or in other words, that each of claims 1, 5, 9 and 11 is readable on Armand's disclosure. Applicant respectfully submits that clearly such is **not the case here**.

Second, Applicant respectfully calls to the Examiner's attention that **only** Armand is from the parking brake control lever art, while Decrouppe is from the gear shift lever art and Larabet is from the art of outside door handles for cars.

Applicant's claims 1, 5, 9 and 11 contain the following limitations which are **not disclosed, either expressly or inherently, in Armand:**

said recess being in said console and having an open lateral face at a lateral side thereof;

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the releasing knob being disposed on a peripheral surface of a grip of the control lever, the peripheral surface being exposed in the open face of the recess when the control lever occupies the releasing position (A).

Thus, Applicant respectfully submits that Armand is **incapable of anticipating** claims 1, 5, 9 and 11, whereby Applicant respectfully requests the Examiner to reconsider and withdraw this rejection under 35 U.S.C. § 102(b) based on anticipation by Armand.

As for the rejection of claims 2, 6 and 10-12 under 35 U.S.C. § 103(a) as being unpatentable over Armand in view of Decrouppe '789, Applicant respectfully submits that the Examiner has not made out a *prima facie* case of obviousness.

Applicant has just above pointed out the features/limitations in claim 1 which are common to claim 2, and which are not disclosed or even suggested in the primary reference Armand. Even though Armand is from the art of parking brake control lever systems, Decrouppe is from the **non-analogous** art of "a selector system for manually shiftable automatic transmissions". While it is true that Decrouppe shows "a control knob 12 [that] is connected at the bottom to a mounting member 13...", this "control knob 12" is not "a releasing knob operative for returning the control lever from said operating position to the releasing position, "as required by Applicant's parent claim 2.

Thus, a person ordinarily skilled in the art of control lever systems for a parking brake would not look to Decrouppe for a solution of the problem solved by Applicant's invention. Even though Applicant realizes that an examiner must read the disclosure of a patent application in order to determine patentability of claims, Applicant respectfully submits that the Examiner

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has engaged in the prohibited use of hindsight (gained from the knowledge of Applicant's own disclosure) even to reach the Examiner's conclusion that it would have been obvious "to modify the apparatus of Armand to place the release knob on a peripheral surface for the purpose of ergonomic placement for the driver".

Furthermore, even if (for some reason) this person were to combine the teachings of Armand and Decrouppe, there would not be achieved the subject matter of the independent claim 2 or of the dependent claims 6 and 10-12 all of which are either directly or indirectly dependent on parent claim 2. Parent claim 2, is identical to claim 1 except for the claim 2 limitation "the peripheral surface **facing a bottom surface of the recess...**", and Applicant has just explained the deficiencies of the primary reference Armand relative to the common subject matter of independent claims 1 and 2. Furthermore, Decrouppe's "control knob 12" is not "facing a bottom surface of [a] recess", as required by claim 2. The Examiner makes only the following conclusory statement in support of this rejection:

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Armand to place the release knob on a peripheral surface for the purpose of ergonomic placement for the driver.

The Examiner does not even assert that Decrouppe's "control lever" is "facing a bottom surface of the recess when the control lever occupies the releasing position (as claimed by Applicant), and Applicant respectfully submits that Decrouppe's control lever is not positioned as claimed in claim 2. Thus, again, even if one were to combine the teachings of Armand and Decrouppe, there would not be achieved the subject matter of claim 2 and its dependent claims 6 and 10-12,

whereby Applicant respectfully requests the Examiner to reconsider and withdraw this rejection under 35 U.S.C. § 103(a).

As for the rejection of dependent claims 3, 4, 7, 8 and 11 under 35 U.S.C. § 103(a), Applicant has already explained above the deficiencies in Armand and Decrouppe relative to the independent claims 1 and 2 (claims 3, 4, 7, 8 and 11 are all either directly or indirectly dependent on claim 1 or claim 2).

Larabet '041 is from the **non-analogous** art of an "outside door handle assembly for a motor vehicle", rather than from the "control lever system for a parking brake" art to which all of these claims are limited. Again, Applicant must respectfully submit that the Examiner must have engaged in the prohibited use of hindsight, gained from the knowledge of Applicant's own disclosure, to reach the modifications proposed by the Examiner. Furthermore, even if Larabet's "positioning means" were used in the Examiner's proposed modification of the Armand/Decrouppe combination, there would not be produced the subject matter of claims 3, 4, 7, 8 and 11. Applicant respectfully submits that the Examiner simply has not made out a *prima facie* case of obviousness to support this conclusion that the subject matter of each of claims 3, 4, 7, 8 and 11, taken as a whole, would have been obvious from these three references which are from **three different arts, and two of which are from non-analogous arts**.

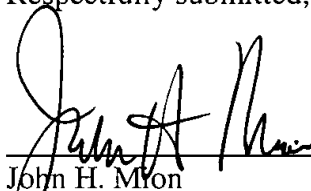
In summary, then, Applicant respectfully requests the Examiner to reconsider and withdraw the rejections under 35 U.S.C. § 102(b) and 103(a) and to find the application to be in condition for allowance with all of claims 1-12; however, if for any reason the Examiner feels

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that the application is not now in condition for allowance, the Examiner is respectfully requested to **call the undersigned attorney** to discuss any unresolved issues and to expedite the disposition of the application.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880.

Respectfully submitted,



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APPENDIX

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION:

The paragraph bridging pages 9 and 10 of the specification is changed as follows:

A releasing knob 25 of a grip 13 of a control lever 10 is mounted in a recess 11 of a console box 2 for movement either toward or away from a bottom of the recess 11. Namely, the releasing knob 25 is disposed on a front surface of the grip 13 opposed to a bottom surface of the recess 11. The releasing knob 25 and a flange 21a of a connecting rod 21 are integrally formed with an urging element 31 and a receiving element 32 having slants 31a and 32a slidably abutting against each other, respectively. The remainder of the third embodiment is the same as in the first embodiment and hence, portions or components corresponding to those in the first embodiment are designated by like reference characters in FIG. 9 and the description of them is omitted.

IN THE CLAIMS:

The claims are amended as follows:

1. (Amended) A control lever system for a parking brake, comprising:

a control lever for the parking brake, which is mounted to [an interior equipment] a console of a vehicle for moving between an operating position (B) in which it operates the

parking brake, and a releasing position (A) in which it releases the operation of the parking brake[;],

said console being located between left and right front drivers' seats of the vehicle;

a recess that accommodates the control lever when the control lever occupies the releasing position (A)[; and],

said recess being in said console and having an open lateral face at a lateral side thereof;
and

a releasing knob[,] operative for returning the control lever from the operating position (B) to the releasing position (A), the releasing knob being disposed on a peripheral surface of a grip of the control lever, the peripheral surface [corresponding to an opened] being exposed in the open face of the recess when the control lever occupies the releasing position (A).

2. (Amended) A control lever system for a parking brake, comprising:

a control lever for the parking brake, which is mounted to [an interior equipment] a console of a vehicle for moving between an operating position (B) in which it operates the parking brake, and a releasing position (A) in which it releases the operation of the parking brake[;],

said console being located between left and right front drivers' seats of the vehicle;

a recess for accommodating the control lever when the control lever occupies the releasing position (A)[; and],

said recess being in said console and having an open lateral face at a lateral side thereof;
and

a releasing knob[,] operative for returning the control lever from the operating position (B) to the releasing position (A), the releasing knob being disposed on a peripheral surface of a grip of the control lever, the peripheral surface facing a bottom surface of the recess when the console lever occupies the releasing position (A).

3. (Amended) A control lever system for a parking brake according to claim 1, further comprising positioning means disposed between an inner wall of the recess and a head of the grip, the positioning means defining the releasing position (A) of the control lever to ensure that outer surfaces of both the [interior equipment] console and the control lever are substantially flush with each other.

4. (Amended) A control lever system for a parking brake according to claim 2, further comprising positioning means disposed between an inner wall of the recess and a head of the grip, the positioning means defining the releasing position (A) of the control lever to ensure that outer surfaces of both the [interior equipment] console and the control lever are substantially flush with each other.